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IN THE

Supreme Court of the United States

October Term 1967

No. 815

NORINE PAULAITIS
Plaintiff-Appellee

vs

EDWARD PAULAITIS
Defendant-Appellant

APPEAL FROM THE SUPREME COURT
OF ILLINOIS

PETITION FOR REHEARING

EDWARD PAULAITIS
I.D. 419243 - Tier G-4
Cook County Jail
2600 S. California Ave.
Chicago, Illinois

Appearing pro-se

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

No. 815

BORIS PAULAITIS, Plaintiff-Appellee

v.

EDWARD PAULAITIS, Defendant-Appellant

APPEAL FROM THE SUPREME COURT OF ILLINOIS
Case 40352

which appealed from

The Appellate Court of Illinois
First District Case 51017

which appealed from

The Circuit Court of Cook County
Chancery-Divorce Division
Case 65 CH 2830

JUDGE HYMAN FELDMAN - Presiding

PETITION FOR REHEARING

PETITION FOR REHEARING

Defendant-Appellant, EDWARD PAULAITIS, respectfully petitions the Justices of the Supreme Court of the United States for a rehearing in the above entitled cause. A denial to hear this cause deprives defendant of the fundamental Constitutional Right of Due Process of Law which cannot, in good faith, be denied by the courts to any citizen of these United States, deprives him of justice, reflects upon his good character, deprives him of the understanding and love of his children, and subjects him to an unjustified monetary loss and payment of costs and legal fees in all the courts for the expenses incurred by those engaged in suppressing the defendant's efforts to gain his Constitutional Right to a hearing by his appeals.

The SOLE issue of the appeal in this, and the lower courts, was - and is - that judgment was entered in a court of law against the defendant without granting him the hearing he requested to present his defense and objections to the entry of that judgment in violation of the Due Process of Law provisions of the United States Constitution. Court decisions were cited by the defendant in his appeal briefs which state the courts judgment that IT IS FUNDAMENTAL that the courts must provide a hearing when it is requested; yet this defendant-petitioner is being denied this right. This is the ONLY issue on appeal.

The order being appealed was entered by Judge Hyman Feldman of the Circuit Court of Cook County (Chicago) in the State of Illinois granting the prayer of plaintiff's complaint without giving the defendant a hearing to present his defense and objections over his strenuous objections.

The defendant, therefor, appealed to the Appellate Court of Illinois, First District, filing Briefs and Abstract of Record as required. He appealed on the grounds that the denial of a hearing was a violation of Due Process of Law guaranteed by the United States Constitution to all citizens. Proceedings were delayed for nearly a year by NINE (9) continuances granted to the opposing lawyers after which they submitted twenty-one (21) pages of approximately 7,000 words to support a motion to dismiss the defendant's appeal. None of the material in these documents dealt with the SOLE simple issue on appeal but resorted to introduction of statements not in evidence tending to discredit the defendant as if he were not worthy of the right to a hearing to present his defense and objections. The appeal was, then, dismissed "out of this court" by the Appellate Court.

Defendant, then, petitioned the Supreme Court of the State of Illinois to correct the wrong as a MATTER OF (CONSTITUTIONAL) RIGHT as opposed to petitioning for LEAVE TO APPEAL (the two options available under the law). The Supreme Court of Illinois, instead, treated the petition as a PETITION FOR LEAVE TO APPEAL and denied LEAVE TO APPEAL!

Defendant, then, appealed to the Supreme Court of the United States on the same Constitutional grounds and prepared a very carefully detailed JURISDICTIONAL STATEMENT as required by the court rules outlining, step by step, the manner in which defendant's Constitutional rights were diverted and showed, step by step, that each and every action taken by opposing counsel introduced a mass of totally irrelevant arguments ALL OF WHICH evade the SOLE issue on appeal, the right of a citizen to a hearing PRIOR to judgment as a fundamental Constitutional Right.

A two-sentence decision was rendered by the Supreme Court of the United States on January 22, 1968 with the following words:

PER CURIAM

"The appeal is dismissed for want of jurisdiction. Treating the papers as a petition for certiorari, certiorari is denied."

Defendant admits to an error in his original JURISDICTIONAL STATEMENT filed in this court in referring to Article V of the United States Constitution rather than to Amendment V which was intended and which includes the Due Process of Law provisions to which the text of the JURISDICTIONAL STATEMENT so consistently refers. Defendant, also, admits that it would have been extremely appropriate to refer directly to Amendment XIV of the United States Constitution

which does not allow any State "to deny any person of life, liberty, or property without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

If the Supreme Court of the United States based its statement of lack of jurisdiction on the obvious error and the lack of specific reference to Amendment XIV, then the defendant-petitioner respectfully begs for reconsideration on the basis that inasmuch as ignorance of the law is no excuse to exonerate an individual for violation of the law, the lack of specific reference to a particular law should not deprive him to the protection of that law particularly when the substance of that law is regarded as a precious Constitutional Right of such common knowledge among all citizens that reference to its specific location within the United States Constitution is not of paramount value to appreciate its applicability or to establish that its denial is totally repugnant to all concepts of justice.

There is something radically wrong and totally reprehensible in procedures which continue to deny this simple fundamental right to the defendant. THE DEFENDANT PETITIONS THE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES FOR A REHEARING ON THE GROUNDS THAT THE JUSTICES, THEMSELVES, COULD NOT HAVE BEEN PROPERLY ADVISED OF THE NATURE OF THE ISSUE IN THIS APPEAL.

The Defendant is simultaneously appealing to the people of the United States in the newspapers to recognize that this unwarranted, repeated denial of this issue on appeal constitutes a denial of a fundamental Constitutional right and constitutes a breakdown of justice, judicial proceedings and reflects adversely on the members of the legal profession who propete such injustices.

It is totally repugnant to all concepts of justice to believe that any court can say that judgment can be entered in a judicial proceeding against a defendant, in any court, without granting the defendant a hearing when requested to present his defense and objections which is the SOLE issue of the appeal; or that a higher court can say that it has no jurisdiction over this fundamental Constitutional right on appeal - or that any higher court will refuse to review a case whose SOLE issue involves this right which affects every citizen of the United States.

The defendant, therefor, respectfully requests the Justices of this Court to grant this petition for a rehearing and, inasmuch as no reply has been filed by the plaintiff to defendant's JURISDICTIONAL STATEMENT on appeal, the defendant respectfully requests the Justices of the Supreme Court of the United States to review the case itself.

In order to insure that no misunderstanding exists, the Justices are hereby respectfully requested to express their reasons for their decision and specifically to refute or affirm the following: (Pages referred to are page numbers in the Jurisdictional Statement)

1. Whether, or not, the SOLE issue in the appeal is whether a man has the right to a hearing before judgment is rendered in a court of law. (Page 9)

2. Whether, or not, anyone can deny that the defendant was denied the hearing which he has diligently, and persistently, sought.

3. Whether, or not, the SOLE relief asked for in defendant's JURISDICTIONAL STATEMENT and all the appeals was to remand the case to the lower court with instructions to vacate the order entered without a hearing, to grant the defendant a full and unabridged hearing on plaintiff's motion which led to the entry of this order, and to charge all costs of all appeals to the plaintiff or, more properly, her attorneys.

4. Whether, or not, any court has the right to deny any defendant a hearing requested by him for any reason; whether, or not, such denial of a hearing leads to the possibility that a just man can be wronged; and whether, or not, this is totally repugnant to fundamental concepts

of justice.

5. Whether, or not, a man can be subjected to payment of all of the legal fees and expenses of those engaged in suppressing defendant's efforts to gain his Constitutional rights to a hearing by his appeals.

6. Whether, or not, the right to a hearing PRIOR to judgment in a court of law is part and parcel Due Process of Law under the United States Constitution; whether, or not, the Supreme Court of the United States has jurisdiction of these matters; and whether, or not, the Supreme Court of the United States could, and should, intercede in such cases when remedy could not be obtained in the lower courts.

7. Whether, or not, the injustice of denying the defendant a hearing before judgment in a court of law is so great a violation of a fundamental Constitutional right that such a denial cannot be justified by a technicality or some superficial reason to warrant an abridgment of a basic fundamental right of every citizen of these United States, a right designed to insure justice for all.

8. Whether, or not, the courts are entitled to deny an appeal without stating reasons for the denial; whether, or not, the arbitrary power of denial without stating

reasons encourages the wrongful exercise of autocratic power independent of the established laws of the land.

CONCLUSION

Defendant believes that there is but one honest verdict which can be rendered in this extremely simple issue presented to this court. Defendant prays that this petition for rehearing is granted and that the court review the case and grant the relief requested by the defendant.

Because of the unusual efforts required by the defendant to obtain a simple Constitutional right and the importance of this decision to the common people of the United States, the defendant asks the Justices of this Court to consider the issues very carefully. In the event of an adverse decision, the defendant will make every effort to have this petition and the Court's decision published as a full page ad in a leading newspaper as a public service.

The decision in this case shall be compared to its dual, the ESCOBEDO landmark decision of the United States Supreme Court. Both cases involve a fundamental Constitutional right of Due Process of Law. The ESCOBEDO case involving a conviction on a confession of murder was reversed on the grounds the confession was obtained in violation of the defendant's Constitutional rights. The reversal was obtained by his lawyer. In this case, the only "crime" committed by the defendant is a refusal to abide by a court order entered without a hearing in violation of defendant's Constitutional rights to Due Process of Law. Here the

defendant is representing himself.

In the final analysis in the years to come, the American people and historians will properly evaluate THIS landmark decision, OR LACK OF IT, by the Supreme Court of the United States.

This petition is not filed for purposes of delay but, merely, to obtain justice. The defendant is in Cook County Jail in the City of Chicago, in the State of Illinois, put there by the SAME lawyer BERNARD KAUFMAN and Judge HYMAN FELDMAN for contempt of court for failure to obey the order that they entered without a hearing and which order is the subject of the appeal.

Respectfully submitted,

Edward Paulaitis

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